

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFF**ANTHONY CALICCHIO**

(b) County of Residence of First Listed Plaintiff: **MONROE**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Cary L. Flitter, Esq. and Theodore E. Lorenz, Esq., Flitter Lorenz, P.C., 450 N. Narberth Avenue, Suite 101, Narberth, PA 19072, (610) 822-0781

DEFENDANT**VITAL RECOVERY SERVICES, INC.**

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | |
|---|----------------------------|---|---|
| PTF | DEF | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	PERSONAL PROPERTY	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 861 HIA (1395ff)	<input checked="" type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 740 Railway Labor Act	SOCIAL SECURITY	<input type="checkbox"/> 890 Other Statutory Actions
	REAL PROPERTY	CIVIL RIGHTS	<input type="checkbox"/> 790 Other Labor Litigation	FEDERAL TAX SUITS	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	PRISONER PETITIONS	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence		<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	Habeas Corpus:			<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 530 General			<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty			<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 540 Mandamus & Other			<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 447 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights			
	<input type="checkbox"/> 448 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. § 1692

Brief description of cause: Violation of Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint
JURY DEMAND: ☒ Yes ☐ No.

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 110 Mackenzie Lane, Bartonsville, PA 18321

Address of Defendant: 3795 Date Drive, Suite 200, Peachtree Corners, GA 30092

Place of Accident, Incident or Transaction: 110 Mackenzie Lane, Bartonsville, PA 18320

Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock? (Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court? Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases

(Please specify) Fair Debt Collection Practices Act, 15 U.S.C. § 1692

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
 2. ☐ Airplane Personal Injury
 3. ☐ Assault, Defamation
 4. ☐ Marine Personal Injury
 5. ☐ Motor Vehicle Personal Injury
 6. ☐ Other Personal Injury (Please specify)
 7. ☐ Products Liability
 8. ☐ Products Liability (Asbestos)
 9. ☐ All other Diversity Cases
- (Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, _____, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought

DATE: _____ Attorney-at-Law _____ Attorney I.D. _____

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: July 17, 2015

CIV.609 (4/03)

Ray L. Feitt
Attorney-at-Law

35047
Attorney I.D.

APPENDIX I

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

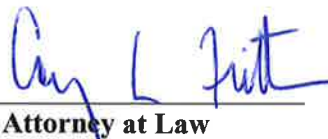
CASE MANAGEMENT TRACK DESIGNATION FORM

ANTHONY CALICCHIO	:	CIVIL ACTION
v.	:	
	:	
VITAL RECOVERY SERVICES, INC.	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (☒)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

<u>July 17, 2015</u> Date	 Attorney at Law	<u>Cary L. Flitter, Esq.</u> Attorney for Plaintiff
<u>610-822-0782</u> Telephone <small>(Civ.660) 10/02</small>	<u>610-667-0552</u> Fax Number	<u>cflitter@consumerslaw.com</u> E-Mail Address

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ANTHONY CALICCHIO
110 Mackenzie Lane
Bartonsville, PA 18321,

Plaintiff,

vs.

VITAL RECOVERY SERVICES, INC.
3795 Date Drive, Suite 200
Peachtree Corners, GA 30092,

Defendant.

CIVIL ACTION

NO.

COMPLAINT

I. INTRODUCTION

1. This is an action for damages brought by a consumer pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 (“FDCPA”).

2. The FDCPA prohibits debt collectors from engaging in unfair or unconscionable practices in the collection of a consumer debt.

3. Defendant is subject to strict liability for sending a collection letter which violates the provisions of the FDCPA by exposing personal identifying information in the bar code readable through the window of the envelope that Defendant placed into the mails.

II. JURISDICTION

4. Subject matter jurisdiction of this Court arises under 15 U.S.C. § 1692k, actionable through 28 U.S.C. §§ 1331 and 1337.

5. Venue is proper as Defendant regularly does business in this District.

III. PARTIES

6. Plaintiff Anthony Calicchio (“Plaintiff” or “Calicchio”) is a consumer who resides in Bartonsville, Pennsylvania at the address captioned.

7. Defendant Vital Recovery Services, LLC (“Defendant” or “Vital Recovery”) is a debt collector with a principal place of business at the address captioned.

8. Defendant regularly engages in the collection of consumer debts in this District through the use of the mails and telephone.

9. Defendant regularly attempts to collect consumer debts alleged to be due another.

10. Defendant is a “debt collector” as that term is contemplated in the FDCPA, 15 U.S.C. § 1692a(6).

IV. STATEMENT OF CLAIM

11. On or about January 26, 2015, Defendant Vital Recovery mailed a collection dunn to Plaintiff in an attempt to collect a consumer debt alleged due. A copy of the January 26, 2015 letter is attached hereto as Exhibit “A” (redacted in part per Fed. R. Civ. 5.2).

12. The collection letter was mailed by Vital Recovery to Calicchio in a window envelope.

13. Visible through the window of the envelope placed into the mails is a bar code. When read or scanned, the bar code reveals the account number Vital Recovery assigned to Calicchio’s account.

14. The account number (ending in 983) constitutes personal identifying information.

15. The bar code visible through the window could be easily scanned by anyone with a smartphone, as scanning applications are readily available to the public free of charge.

16. Section 1692f of the FDCPA prohibits the use of unfair or unconscionable means to collect or attempt to collect a debt, including the use of any language or symbol other than the debt collector's name (only if it does not indicate the entity is in the debt collection business) or address on any envelope when communicating with a consumer by mail.

17. The disclosure of personal identifying information such as this infringes upon the consumer's privacy interests protected by the FDCPA, 15 U.S.C. § 1692(a).

COUNT I
(FAIR DEBT COLLECTION PRACTICES ACT)

18. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

19. Defendant violated the Fair Debt Collection Practices Act by sending a collection letter displaying a symbol which reveals personal identifying information. Defendant has violated the FDCPA by:

- (a) using unfair or unconscionable collection practices in connection with the collection of a debt, in violation of 15 U.S.C. § 1692f; and
- (b) using any language or symbol on envelopes mailed to consumers that revealed information other than the debt collector's address, in violation of 15 U.S.C. § 1692f(8).

WHEREFORE, Plaintiff Anthony M. Calicchio demands judgment against Defendant Vital Recovery Services, Inc. for:

- (a) Damages;
- (b) Attorney's fees and costs; and
- (c) Such other and further relief as the Court shall deem just and proper.

V. JURY DEMAND

Plaintiff demands trial by jury as to all issues so triable.

Respectfully submitted:

DATE:

July 17, 2015

A handwritten signature in blue ink, appearing to read "Cary L. Flitter", written over a horizontal line.

CARY L. FLITTER
THEODORE E. LORENZ
ANDREW M. MILZ
Attorneys for Plaintiff

FLITTER LORENZ, P.C.
450 N. Narberth Avenue, Suite 101
Narberth, PA 19072
(610) 822-0781

EXHIBIT “A”

PO Box 923748
Peachtree Corners, GA 30010-3748
RETURN SERVICE REQUESTED
January 26, 2015

VITAL RECOVERY SERVICES, INC.
PO Box 923748
Peachtree Corners, GA 30010-3748
(800)207-2102

Original Creditor: NISSAN MOTOR
ACCEPTANCE CORP
Current Creditor: NISSAN MOTOR
ACCEPTANCE CORP

New Account #: [REDACTED] 983
Original Account#: [REDACTED] 2525
Last Payment Date: July 10, 2013
Total Balance Due: \$ [REDACTED]
0002 [REDACTED] 983

0000182 V01

ANTHONY M CALICCHIO
110 MACKENZIE LN
BARTONSVILLE PA 18321-7763

THANK YOU FOR YOUR PROMISE.

Dear ANTHONY M CALICCHIO:

This letter is to confirm your conversation with VITAL RECOVERY SERVICES, INC.. We thank you for your recent promise to make payment(s) on the NISSAN MOTOR ACCEPTANCE CORP account shown above.

We will expect the following payment(s) on or before the date(s) that you have agreed upon.

Amount(s): \$ [REDACTED]
Date(s): 01/30/2015

By always paying on time as we both have agreed, you'll ensure that you keep your payment terms.

For further information or to pay by phone, please call VITAL RECOVERY SERVICES, INC. at (800)207-2102.

This letter is an attempt to collect a debt by a debt collector. Any information obtained will be used for that purpose. This communication is from a debt collector.

To make a payment online go to: <https://pay.vitalrecovery.com/>
Sign on using payment id: [REDACTED] 98348

A fee may be charged for check or credit card payments made by phone or web.

↓ Detach Here And Remit Lower Portion With Payment In The Enclosed Reply Envelope ↓

Make check payable to:
VITAL RECOVERY SERVICES, INC.

1272015

NEW ACCT #: [REDACTED] 983
TOTAL BALANCE DUE: \$ [REDACTED]

Amount Paid: [REDACTED]

Home Phone: [REDACTED]

Daytime Phone: [REDACTED]

0002 V01

[REDACTED] 983

VITAL RECOVERY SERVICES, INC.
PO BOX 923747
PEACHTREE CORP., GA 30010-3747

ANTHONY M CALICCHIO
110 MACKENZIE LN
BARTONSVILLE PA 18321-7763



☐ Check here if address has changed.
Please note changes on reverse side.